

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

DEBORA D. TANNER, et al.)	
)	
Plaintiffs,)	
)	
vs.)	Case No.: 4:11-CV-01361-NAB
)	
CITY OF SULLIVAN, DON L. REED,)	
DSN 115, DARRIN M. JONES, DSN 117,)	
KEVIN L. HALBERT, JEFF ROHRER,)	
SHAUN HINSON, DAVID ROCHE, and)	
GEORGE COUNTS,)	
)	
Defendants.)	

**PLAINTIFFS' JOINT APPLICATION PURSUANT TO § 537.095 RSMo. FOR
APPORTIONMENT AND DISTRIBUTION OF THE JUDGMENT HEREIN AND
APPROVAL OF APPORTIONMENT AND DISTRIBUTION TO MINOR PURSUANT
TO § 507.188(2) RSMo.**

COME NOW Plaintiffs and for their Joint Application pursuant to § 537.095 RSMo. for Apportionment and Distribution of the Judgment herein and Approval of Apportionment and Distribution to Minor pursuant to § 507.188(2) RSMo., state as follows:

1. That this five-day trial began on January 14, 2013 and was submitted to the jury on Plaintiffs' claims of state law wrongful death negligence against Defendants Jeff Rohrer, Don L. Reed, Shaun Hinson, Darrin M. Jones, and Kevin L. Halbert; that the jury returned a Plaintiffs' verdict of Two-Million-Eight-Hundred-Fifty-Thousand Dollars (\$2,850,000.00) on January 18, 2013 [Doc. 199] [Doc. 200].

2. That Plaintiffs filed their Motion for Bill of Costs on January 24, 2013 [Doc. 208].

3. That Defendants filed their Rule 50 Motion for Judgment as a Matter of Law or in the Alternative Rule 59 Motion for Remittitur or New Trial on February 15, 2013 [Doc. 213].

4. That this Court entered its Order denying Defendants' Rule 50 Motion for Judgment as a Matter of Law or in the Alternative Rule 59 Motion for Remittitur or New Trial on June 28, 2013 and therefore judgment became final on June 28, 2013 [Doc 233].

5. That this Court entered its Order granting in part and denying in part Plaintiffs' Motion for Bill of Costs and further ordered the Clerk of the Court tax costs in the amount of Fifteen-Thousand-Five-Hundred-Ninety-Four Dollars and Ninety-Seven Cents (\$15,594.97) against Defendants Jeff Rohrer, Don L. Reed, Shaun Hinson, Darrin M. Jones, and Kevin L. Halbert on June 28, 2013 [Doc. 234].

6. That Plaintiff C.B. is a minor who is currently four (4) years of age and the natural daughter of Karen Palmer, deceased; that Plaintiff Debora D. Tanner is the natural grandmother of minor, C.B., and has been appointed as Next Friend of minor, C.B.

7. That Plaintiffs pursued an action in the Probate Court of Franklin County for appointment of guardian and conservator of minor, C.B., Cause Number 10AB-PR00276; that on March 14, 2013 the Probate Court of Franklin County appointed Daniel Buescher and/or Law Firm of Buescher & White LLC as Conservator of the estate of minor, C.B. (Letters of Conservatorship of Minor attached hereto, Exhibit 1).

8. That Plaintiff Debora D. Tanner is the natural mother of Karen Palmer, deceased.

9. That Plaintiff Danny C. Palmer is the natural father of Karen Palmer, deceased.

10. That the individuals who have a statutory right to participate in the judgment herein for the wrongful death of Karen Palmer, deceased, pursuant to § 537.080 RSMo. are:

a. Plaintiff C.B.

b. Plaintiff Debora D. Tanner

c. Plaintiff Danny C. Palmer

11. That Donald L. Schlappizzi, P.C. has been retained to represent Plaintiffs herein under a contingency fee contract calling for a 40% fee, or One-Million-One-Hundred-Forty-Thousand Dollars (\$1,140,000.00).

12. That Donald L. Schlappizzi, P.C. has advanced necessary and reasonable litigation expenses in the amount of Forty-Two-Thousand-Five-Hundred-Sixty-Two Dollars and Eighty-Eight Cents (\$42,562.88).

13. That Plaintiffs suggest to this Court an equitable apportionment and distribution to Plaintiffs as follows:

- a. Plaintiff C.B. – 50% of the net proceeds.
- b. Plaintiff Debora D. Tanner – 25% of the net proceeds.
- c. Plaintiff Danny C. Palmer – 25% of the net proceeds.

14. That pursuant to § 507.188(2) RSMo., after paying the attorney's fee and expenses, Debora D. Tanner, Next Friend, shall transfer the net proceeds of minor C.B. jointly to Daniel Buescher and/or Law Firm of Buescher & White LLC, duly appointed and qualified conservator of minor C.B and a designated depository for deposit in a restricted account marked no withdrawal without order of the Probate Court of Franklin County, Missouri; that upon the aforesaid transfer, Debora D. Tanner, Next Friend shall file with this Court a receipt from Daniel Buescher and/or Law Firm of Buescher & White LLC to whom transfer was made, evidencing deposit of said proceeds in the designated depository marked no withdrawal without order of the Probate Court of Franklin County, Missouri, with a certified copy of said conservator's letters attached to such receipt.

WHEREFORE, Plaintiffs pray this Court for the following Order:

1. That Donald L. Schlapprizzi, PC is entitled to One-Million-One-Hundred-Forty-Thousand Dollars (\$1,140,000.00) as attorney's fee for services rendered which is fair and equitable, and said sum is ordered paid to Donald L. Schlapprizzi, PC from the judgment herein.

2. That Donald L. Schlapprizzi, PC has advanced Forty-Two-Thousand-Five-Hundred-Sixty-Two Dollars and Eighty-Eight Cents (\$42,562.88) in litigation expenses; that said sum is reasonable under the circumstances and is ordered paid to Donald L. Schlapprizzi, PC from the judgment herein.

3. That the net proceeds of One-Million-Six-Hundred-Eighty-Three-Thousand-Thirty-Two Dollars and Nine Cents (\$1,683,023.09), which include the net amount of the judgment herein, One-Million-Six-Hundred-Sixty-Seven-Thousand-Four-Hundred-Thirty-Seven Dollars and Twelve Cents (\$1,667,437.12), plus taxable court costs in the amount of Fifteen-Thousand-Five-Hundred-Ninety-Four Dollars and Ninety-Seven Cents (\$15,594.97), is fair and equitable for distribution to Plaintiffs.

4. That the net settlement of \$1,683,023.09 is ordered apportioned and distributed as follows:

a. Debora D. Tanner, Next Friend of C.B.: \$841,511.55 to be transferred jointly to Daniel Buescher and/or Law Firm of Buescher & White LLC, duly appointed and qualified conservator of minor C.B and a designated depository in an account marked no withdrawal without order of the Probate Court of Franklin County, Missouri.

b. Debora D. Tanner: \$420,755.77.

c. Danny C. Palmer: \$420,755.77.

5. That upon the filing with this Court a receipt from Daniel Buescher and/or Law Firm of Buescher & White LLC, evidencing the net sum transfer of \$841,511.55, deposited with

the designated depository with a certified copy of said conservator's letters attached to such receipt, Next Friend of C.B., Debora D. Tanner, discharged as Next Friend.

So ordered:

Donald L. Schlapprizzi P.C.
Attorneys for Plaintiff

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Certificate of Service

I hereby certify that a copy of the foregoing was filed electronically with the Clerk of the Court this 1st day of July, 2013, to be served electronically by operation of the Court's electronic filing system upon the following:

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/s/ Antoinette T. Schlappizzi